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28 Attorneys for Plaintiff Mayalinda Bernal

17 UNITED STATES DISTRICT COURT

18 NORTHERN DISTRICT OF CALIFORNIA

19 MAYALINDA BERNAL, on behalf
20 of herself and all others similarly
21 situated,

Plaintiffs,

22 vs.

23 DAVITA, INC., doing business as
24 DAVITA SOLEDAD DIALYSIS;
25 SOLEDAD DIALYSIS CENTER,
LLC doing business as SOLEDAD
DIALYSIS; MARIAH SILVA; and
DOES 1 through 50, inclusive,

26 Defendants.

27 Case No. CV-12-3255 ~~LHK~~ (PSG)

28 Assigned for All Purposes to the
Honorable ~~Lucy H. Koh~~ Paul S. Grewal

**[PROPOSED] ORDER
GRANTING PRELIMINARY
APPROVAL OF CLASS ACTION
SETTLEMENT**

Date: September 3, 2013
Time: 10:00 a.m.
Place: Courtroom 5

ORDER

Having considered the Joint Stipulation of Settlement and Release (“Settlement Agreement” or “Settlement”) and all of the legal authorities and documents submitted in support thereof and **GOOD CAUSE** appearing, **IT IS HEREBY ORDERED** that the Motion for Preliminary Approval of Class Arbitration Settlement is **GRANTED**, subject to the following findings and orders:

1. This Order incorporates by reference the definitions in the Settlement Agreement, and all terms defined therein shall have the same meaning as set forth in the Settlement Agreement.

2. The Settlement Class shall be certified for settlement purposes only and shall consist of all persons employed in California in the position of Patient Care Technician or Reuse Technician at any time from April 6, 2008, through the date of Preliminary Approval of the Settlement by the Court.

3. The settlement set forth in the Settlement Agreement, entered into among the parties and their counsel, is preliminarily approved as it appears to be proper, to fall within the range of reasonableness, to be the product of arm's-length and informed negotiations, to treat all Class Members fairly, and to be presumptively valid, subject only to any objections that may be raised at the Final Approval hearing.

4. The Court preliminarily approves the Class Settlement Amount of \$3,400,000 (inclusive of payments to Participating Class Members, Class Counsel's attorneys' fees and costs, the Labor PAGA Payment, Settlement Administration Costs, and the Class Representative Enhancement Payments).

5. The Court approves, as to form and content, the proposed Notice of Class Action Settlement (“Class Notice”).

6. The Court directs the mailing, by First-Class U.S. mail, of the Class Notice to Class Members in accordance with the schedule set forth below. The

1 Court finds that the method selected for communicating the class action
 2 Settlement to Class Members is the best notice practicable under the
 3 circumstances, constitutes due and sufficient notice to all persons entitled to
 4 notice, and thereby satisfies due process.

5 7. Mayalinda Bernal and Diabanza Lusakivo are suitable class
 6 representatives and are appointed Class Representatives for the Settlement Class.

7 8. The Court appoints Fitzpatrick, Spini & Swanston, Wanger Jones
 8 Helsey PC; and Capstone Law APC as Class Counsel. The Court finds that
 9 Class Counsel have demonstrable experience litigating, certifying, and settling
 10 wage and hour class actions, and will serve as adequate counsel for the
 11 Settlement Class.

12 9. The Court approves and appoints Gilardi & Co., Inc. as the claims
 13 administrator.

14 10. If, for any reason, the Settlement Agreement is not finally approved
 15 or does not become effective, this Order Granting Preliminary Approval shall be
 16 deemed vacated and shall have no force or effect whatsoever, and the Actions
 17 shall proceed as if no settlement had been attempted.

18 11. The following dates shall govern for the purposes of this Settlement:
 19

Schedule for Execution of Settlement	
Not more than 20 business days after the Court grants Preliminary Approval	Last day for Defendants to produce the Class List to the Claims Administrator and Class Counsel
Not more than 14 calendar days after the Claims Administrator receives the Class List	Last day for Claims Administrator to mail Class Notices to all Class Members
Not more than 38 calendar days after the Claims Administrator mails Class Notices to Settlement Class Members	Last day for Plaintiff to file her Motion for Attorneys' Fees and Litigation Expenses
Not more than 60 calendar days after Claims Administrator mails Class Notices to all Class Members	Last Day for Class Members to submit requests for exclusion or objections to the settlement ("Response Period Deadline")

1	Not more than 14 calendar days after the Response Period Deadline	Plaintiff files the Motion for Final Approval of Class Action Settlement
2	January 9, 2014 at 1:30 p.m. January 14, 2014 at 10:00 a.m.	Hearing on Motion for Final Approval of Class Action Settlement and Motion for Attorneys' Fees and Litigation Expenses

7 **IT IS SO ORDERED.**

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9 Dated: September 3, 2013

Paul S. Grewal

10 Hon. Paul S. Grewal
11 United States Magistrate Judge

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